

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Matthew DJR McMurray

Docket No. 355744

LC No. 2020-004558-FH

Michael J. Kelly  
Presiding Judge

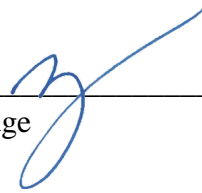
Amy Ronayne Krause

Brock A. Swartzle  
Judges

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The delayed application for leave to appeal is DENIED for lack of merit in the grounds presented.

\_\_\_\_\_  
Presiding Judge



Ronayne Krause, J., concurs and states: While I concur that the argument by defendant is not compelling, I write separately to say that it is not the best practice for a trial court, under the language we have in this transcript to fail to ascertain that the defendant had an opportunity to fully allocute. From the sentencing transcript:

THE DEFENDANT: ...I've just got to catch my breath here...  
And I can't lose this job, your Honor. I just  
request work release, if anything? Some counseling, or  
whatever I need just to get back on track.  
I have a family.  
I had a fire just recently, this past Saturday.  
I'm trying to told it all together.

THE COURT: Twenty-five (25) misdemeanors.

THE DEFENDANT: Yes, your Honor.

THE COURT: It's my turn to talk.  
This is your third felony conviction. (Sentencing transcript pp 9-10)

It could be defendant was finished speaking, however the record is not clear. I would caution the trial court when using words, such as, "it is my turn to talk", it would be better practice to have an exchange with the defendant prior to words of that nature, asking if defendant has anything else to say, to avoid any confusion in the future.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

January 27, 2021  
Date

*Jerome W. Zimmer Jr.*  
Chief Clerk